

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DONALD A. REECE,

Petitioner,

vs.

RENE BAKER,

Respondent.

3:12-cv-00193-RCJ-WGC

ORDER

Petitioner has filed an application to proceed *in forma pauperis* and submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and a motion for appointment of counsel. Petitioner has paid the filing fee for this action. (Docket #4). The petition shall now be filed and served on respondents.

There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The claims in

1 this case are not especially complex. Also, the Court notes from the petition that petitioner has
2 submitted to the Court, that petitioner is able to present matters to the Court in an organized and
3 understandable manner. Petitioner's motion shall be denied.

4 **IT IS THEREFORE ORDERED** that the Clerk shall **FILE and**
5 **ELECTRONICALLY SERVE** the petition (Docket #1-1) upon the respondents.

6 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from
7 entry of this order within which to answer, or otherwise respond to, the petition. In their answer or other
8 response, respondents shall address any claims presented by petitioner in his petition as well as any
9 claims presented by petitioner in any Statement of Additional Claims. Respondents shall raise all
10 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
11 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
12 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
13 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
14 **five (45) days** from the date of service of the answer to file a reply.

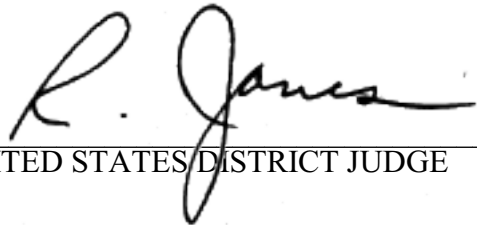
15 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
16 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
17 consideration by the Court. Petitioner shall include with the original paper submitted for filing a
18 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
19 General. The Court may disregard any paper that does not include a certificate of service. After
20 respondents appear in this action, petitioner shall make such service upon the particular Deputy Attorney
21 General assigned to the case.

22 **IT FURTHER IS ORDERED** that any state court record exhibits filed by respondents
23 herein shall be filed with a separate index of exhibits identifying the exhibits by number or letter. The
24 CM/ECF attachments that are filed shall further be identified by the number or numbers (or letter or
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1 letters) of the exhibits in the attachment. The hard copy of any additional state court record exhibits
2 shall be forwarded – for this case – to the staff attorneys in Reno.

3 **IT IS FURTHER ORDERED** that the Clerk shall **detach and file** the Motion for
4 Appointment of Counsel (Docket #1-2), which is **DENIED**.

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6 DATED this 3rd day of August, 2012.

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9 UNITED STATES DISTRICT JUDGE
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